



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

INTEGRA SPECIALTY GROUP PA
8108 FOX CREEK TRAIL
DALLAS TX 75249

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name

AMERISURE MUTUAL INSURANCE CO

Carrier's Austin Representative Box

Box Number 47

MFDR Tracking Number

M4-10-3124-01

MFDR Date Received

March 8, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary as taken from the January 22, 2010 Request for Reconsideration: “

TWCC-73 Monthly Status Reports are required by the TDI and are very medically necessary...Three functional capacity evaluations (FCE) are allowed by the provider. The 1st FCE was performed on 3/17/09...The 2nd FC# test performed on 6/05/09...A maximum of three FCE's may be performed and we have yet to exceed that limit...Pre-authorization is not a requirement for a doctor to order an initial Psychiatric Diagnostic Interview. The psychiatric evaluations were performed on 3/09/09 and 6/05/09...Please note that [Dr.s name] referred the evaluations to be done by [provider's name]...Please note that all fee guidelines have been followed...[Dr.s name] was the approved treating doctor until May 6, 2009 after which [Dr.s name] was referred by [Dr.s name] to become the new treating doctor...All the medical services provided to the patient were applied to the compensable injury area...The carrier failed to provide the original response EOBs for the outstanding dates of service of 4/17/09, 4/24/09, 5/6/09, 5/15/09, 6/05/09, and 7/07/09.”

Amount in Dispute: \$3,116.70*

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: “The carrier acknowledges that compensable injury extends to include a cervical and lumbar strain and psychological disorders.” “There is no evidence that this bill for this date of service and CPT Code has ever been received by the carrier.”

Response Submitted by: Amerisure Insurance; 5221 North O'Connor Blvd., Suite 400; Irving, TX 75039

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|--|-------------------|----------------------|----------------------|
| March 9, 2009 June 5, 2009 | 90801 | \$229.39 \$229.39 | \$ 229.39 \$ 0.00 |
| March 11, 20, 23, 2009; April 17, 24, 2009; May 15, 2009 July 7, 28, 2009; August 21, 2009; September 15, 2009; October 6, 2009; November 17, 2009 | 99213 x 12 days | \$1103.04 | \$1,103.04 |

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|--|-------------------|----------------------|----------------------|
| March 17, 2009 and June 5, 2009 | 97750-FC | \$692.80 \$346.40 | \$692.74 \$346.37 |
| March 23, 2009 | 72052 72114 | \$ 96.80 \$104.33 | \$ 96.80 \$104.33 |
| April 24, 2009; July 7, 2009; September 15, 2009; November 17, 2009 | 99080-73 x 4 days | \$ 60.00 | \$ 60.00 |
| May 6, 2009 | 99212 | \$ 55.71 | \$ 55.71 |
| August 21, 2009 | 99080-73 | \$ 15.00 | \$ 15.00 |
| September 1, 2009 | 99213 | \$ 91.92 | \$ 91.92 |
| TOTAL AMOUNT DUE | | | \$2,795.30 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

*The Table of Disputed Services indicates the disputed total is \$3,116.70; however, according to the bills submitted, the July 28, 2009 disputed service was entered twice.

Background

1. 28 Texas Administrative Code §133.305 relates to MDR – General.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
3. 28 Texas Administrative Code §134.600 requires preauthorization for non-emergency health care.
4. 28 Texas Administrative Code §134.204 sets out the fee guidelines for the reimbursement of workers' compensation specific codes, services and programs provided on or after March 1, 2008.
5. 28 Texas Administrative Code §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
6. 28 Texas Administrative Code §129.5 sets out the requirements for work status reports.
7. Texas Labor Code §413.031(c) states that the role of the division is to adjudicate the payment given the relevant statutory provisions and commissioner rules.
8. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 219 – Based on extent of injury. Denied per adjuster-PLN 11 dispute filed
 - 165 – Payment denied/reduced for absence of, or exceeded referral
 - Denied per adjuster – not treating doctor
 - Denial per peer review/peer review attached and denial per RME/RME attached
 - Outside the ODG, preauthorization required
 - 193 - orig payment maintained

Issues

1. Does the dispute contain unresolved extent of injury issues?
2. Did the requestor treat the compensable injury?
3. Did the respondent support its denial reasons of 'denial per peer review' and 'outside the ODG, preauthorization required' for services billed on August 21, 2009?
4. Did the respondent support its denial reasons of 'denial per RME' and 'outside the ODG, preauthorization required' for services billed on September 1, 2009?
5. Did the respondent support its denial reasons of "no preauthorization obtained" and "not treating doctor" for CPT code 90801 billed on June 5, 2009?
6. Does documentation support the FCEs billed according to 28 Texas Administrative Code §134.204?
7. Did the requestor provide proof of bill submission for specific dates of service?
8. Is the requestor entitled to reimbursement?

Findings

1. A Benefit Contested Case Hearing was held on March 18, 2005 and concluded that the compensable injury of November 12, 2003 included psychological disorders. The parties agree that the compensable injury is a cervical sprain/strain and lumbar sprain/strain. Therefore, the extent of injury issue has been resolved and the disputed services will be reviewed in accordance with applicable Division rules and fee guidelines.
2. The medical bills and daily notes submitted by the requestor in this dispute were reviewed. The requestor billed with primary diagnosis codes 847.0-neck sprain/strain and 847.2-lumbar sprain/strain. The daily notes sufficiently support that treatment was rendered to the compensable injury.
3. The respondent additionally denied CPT code 99080-73 billed on August 21, 2009 based on 'denial per peer review' and 'outside the ODG, preauthorization required.'

CPT code 99080-73, Work Status Report, is a Division-specific required report in accordance with 28 Texas Administrative Code §129.5 and does not require preauthorization. Reimbursement is recommended.

4. The respondent additionally denied CPT code 99213 billed on September 1, 2009 based on 'denial per RME' and 'outside the ODG, preauthorization required.'

A review of the RME report states in part that the "claimant requires no ongoing formal medical treatment." An evaluation and management visit is not treatment per the ODG. Therefore, the respondent's denial reasons based on 'RME' and 'outside the ODG, preauthorization required' are not supported. Reimbursement is recommended.

5. The respondent denied reimbursement for CPT code 90801 billed on June 5, 2009 based on reason code "165- Payment denied/reduced for absence of, or exceeded referral".

28 Texas Administrative Code §134.600(p)(7) requires preauthorization for non-emergency health care to include "all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or Division exempted return-to-work rehabilitation program."

The requestor billed CPT code 90801 (Psychological Diagnostic Interview Examination) on March 9, 2009 and again on June 5, 2009; therefore, the June 5, 2009 service is a repeat interview which does require preauthorization. The respondent's denial reason is supported. The Division finds that preauthorization was not obtained for the June 5, 2009 repeat interview; therefore, reimbursement is not recommended.

The respondent further denied reimbursement for CPT code 90801 billed on June 5, 2009 based on "Denied per adjuster – not treating doctor".

Per Division records, the treating doctor, Kenneth Ericksen, DC, referred the injured worker for the psychological diagnostic interview examination. Therefore, the respondent's denial reason is not supported.

6. The requestor billed CPT code 97750-FC on March 17, 2009 and June 5, 2009.

28 Texas Administrative Code §134.204(g) states, "The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c) (1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required.

The requestor's Detailed Narrative Reports were reviewed and both support the FCEs were billed according to 28 Texas Administrative Code §134.204(g). Therefore, recommend reimbursement.

7. In its position summary, the respondent states "There is no evidence that this bill for this date of service and CPT Code has ever been received by the carrier." 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code 408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." The requestor states they sent the bills in question to Amerisure Mutual Insurance. 28 Texas Administrative Code 102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2)

the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.”

Review of the requestor's documentation finds copies of the P2Plink documents entitled “Bill Information” which minimally support that the bills were sent to Amerisure Mutual Insurance for dates of service April 17, 2009 (CPT 99213); April 24, 2009 (CPT 99080-73 and 99213); May 6, 2009 (CPT 99212); May 15, 2009 (CPT 99213); June 5, 2009 (CPT 97750-FC); and July 7, 2009 (CPT 99080-73). These documents list the date of service, the procedure, the charges, the requestor's name and the respondent's name. The documents minimally support that the requestor sent the bills to the respondent and in a timely manner. Therefore, recommend reimbursement.

8. The requestor is eligible for reimbursement as follows:

- CPT code 90801: WC conversion factor (CF) $\$53.68 \div$ Medicare conversion factor (CF) $\$36.0666 \times$ participating amount $\$154.12 = \229.39 .
- CPT code 99213: WC CF $\$53.68 \div$ Medicare CF $\$36.0666 \times$ participating amount $\$61.76 = \91.92×13 days = $\$1,194.96$
- CPT code 97750-FC (16 units): WC CF $\$53.68 \div$ Medicare CF $\$36.0666 \times$ participating amount $\$29.09 = \43.30 per unit $\times 16$ units = $\$692.74$.
- CPT code 97750-FC (8 units): $\$43.30$ per unit $\times 8$ units = $\$346.37$.
- CPT code 72052: WC CF $\$53.68 \div$ Medicare CF $\$36.0666 \times$ participating amount $\$65.04 = \$ 96.80$
- CPT code 72114: WC CF $\$53.68 \div$ Medicare CF $\$36.0666 \times$ participating amount $\$70.10 = \104.33
- CPT code 99080-73: Per Rule 129.5, reimbursement for the work status report is $\$15.00 \times 5$ days = $\$ 75.00$
- CPT code 99212: WC CF $\$53.68 \div$ Medicare CF $\$36.0666 \times$ participating amount $\$37.43 = \$ 55.71$

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due for all services except for CPT code 90801 billed on June 5, 2009. As a result, the amount ordered is \$ \$2,795.30.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,795.30 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

JULY , 2012
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.